

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DONNIE COOK,

Plaintiff,

v.

STANLEY PAYNE,

Defendant.

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No. 4:18-cv-02118-JMB

MEMORANDUM AND ORDER

This matter is before the Court on its own motion. On December 19, 2018, plaintiff Donnie Cook filed a document with the Court titled “Petition for Writ of Habeas Corpus Pursuant to Supreme Court Rule 91.” (Docket No. 1). In its order of March 29, 2019, the Court construed plaintiff’s filing as a civil action pursuant to 42 U.S.C. § 1983. (Docket No. 4). However, rather than sua sponte recharacterizing plaintiff’s petition, the Court directed him to file a complaint on a Court form, if he so decided. Plaintiff was given thirty days to file a complaint. He was further advised that failure to comply with the Court’s order would result in the dismissal of this action without prejudice and without further notice. Plaintiff has not responded. As a result, this action is dismissed for failure to comply with the Court’s order. *See* Fed. R. Civ. P. 41(b); and *Brown v. Frey*, 806 F.2d 801, 803 (8th Cir. 1986) (stating that district court may dismiss a pro se litigant’s action for failure to comply with a court order on its own initiative).

Accordingly,

IT IS HEREBY ORDERED that this action is **DISMISSED** without prejudice. *See* Fed. R. Civ. P. 41(b).

IT IS FURTHER ORDERED that plaintiff's motion for leave to proceed in forma pauperis (Docket No. 3) is **DENIED AS MOOT**.

IT IS FURTHER ORDERED that an appeal from this dismissal would not be taken in good faith.

Dated this 4th day of June, 2019.

/s/ Jean C. Hamilton
JEAN C. HAMILTON
UNITED STATES DISTRICT JUDGE